



# Community Benefits Agreements

September 10, 2020



# Overview

- Define Community Benefits Agreement (CBA)
- Review five types of community benefit strategies:
  1. Request strong community benefits in government agreements with developers;
  2. Encourage negotiation of private community benefits agreements between developers and community coalitions;
  3. Enact ordinances and policies establishing baseline community benefits for future projects;
  4. Incorporate community benefits into land use planning and policy; and
  5. Convene key stakeholders to reach agreement on community benefits principles for future projects
- With each strategy, examine:
  - When to use
  - Examples
  - Key points to consider
- Discuss next steps



# What is a Community Benefits Agreement?

- Represents a negotiation between a developer and community group/coalition in the area a developer plans to build
- Contains a set of guidelines the developer will follow to ensure the community benefits from the proposed development occur
- Provides the greatest social, economic and environmental benefit while not harming surrounding neighborhood(s). Benefits may include:
  - ✓ Affordable Housing
  - ✓ Job access and job quality
    - Local/disadvantaged hiring for construction and ongoing jobs
    - Living wages
  - ✓ Financial support
    - Job training
    - Other community needs
  - ✓ Improved project design
    - Additional green/open space
    - Community-serving facilities
- Results in community stakeholders supporting the project



# Typical Development Process with No Community Benefits Agreement

## Option 1: Development Agreement:

- Developer works with City officials to craft Development Agreement
- Development Agreement approved by City Council

## Challenges:

- Little community interaction with those who support/oppose project
- Difficult to get prior priorities into a Development Agreement
- Since Development Agreement is a contract, not a law:
  - ✓ Enforced by City and Developer
  - ✓ May be amended over time

## Option 2: Zoning/Land Use Decision:

- Developer makes good faith effort to meet with impacted stakeholders to explain proposed project
- Approved/Denied by City Council
- Decision may or may not include conditions

## Challenges:

- Plans may change from initial concepts
- Another zoning/land use decision must occur

*Neither represent a community benefits process*



# STRATEGY #1: Request Community Benefits in Development Agreements with Developers and in Conditions Placed on Projects

- Use “Development Agreement” after negotiation happens between the City and developer
  - ✓ What the developer is required to build?
  - ✓ What else is permitted to be built?
  - ✓ What support is the public entity providing for project (land sale/lease, tax credits, cash subsidy, project financing, infrastructure support, relaxation of land use controls)?
  - ✓ What are community benefits the developer will provide?
- Elected officials ask for and work to include community benefits as part of Development Agreement



# STRATEGY #1: Oakland, CA



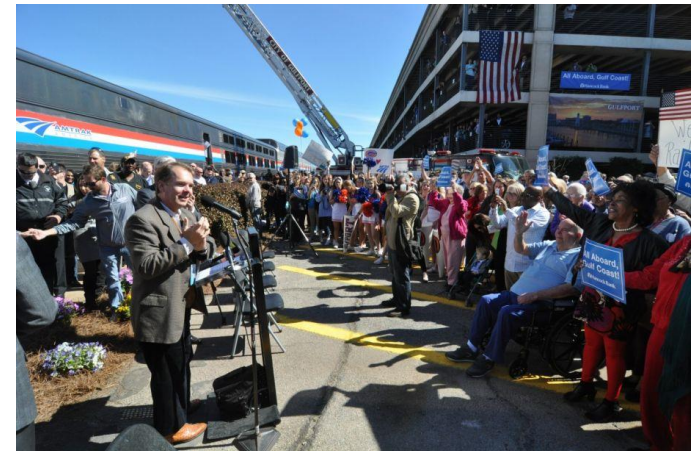
- \$800 million redevelopment of the Oakland Army Base:
  - ✓ Job policies: Requirements for local hire, disadvantaged hire, living wages, limitations on use of temp workers, and community oversight and enforcement
  - ✓ Extensive work between city staff, city councilmembers and a broad range of community stakeholders
  - ✓ Included as part of the Disposition and Development Agreement between Oakland and the developer and made binding on project contractors and tenants
- Community groups also entered agreement agreeing to support the project for the delivery of community benefits





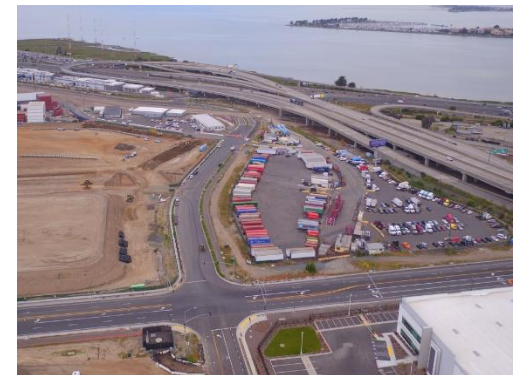
# STRATEGY #1: Key Points

- Enable Extensive Community Involvement
  - ✓ Input from stakeholders early in the process
  - ✓ Ongoing community involvement until the final deal is negotiated
  - ✓ Convene community oversight committee with community stakeholders as part of the agreement
- Insist on Effective, Enforceable Measures
  - ✓ Make sure community benefits commitments are as important as other provisions of the agreement
  - ✓ Include frequent reporting requirements
  - ✓ Specify consequences for noncompliance
  - ✓ Avoid vague language
  - ✓ Ask who is responsible for enforcing the agreement and resources are in place
- Be Prepared to Adjust to the Realities of Projects



# STRATEGY #2: Encourage Negotiation of a Private CBA between Developer & Community Coalition

- Private CBAs are a legally-binding contract negotiated voluntarily by developer and stakeholders
- Supplement government conditions on project approval—the City is not part of the Private CBA
- Developer provides specified community benefits if the proposed project is approved and built
- Stakeholders waive any legal claims regarding the project and agree to support it
- Tool to strengthen the voice of stakeholders and create a culture of community involvement in economic development decisions
- Stakeholders may lack the necessary leverage or capacity





# STRATEGY #2: Kingsbridge (2013)

- Kingsbridge Armory Redevelopment Alliance (KARA) and developer entered into CBA to redevelop Kingsbridge Armory
- Ice sports center with 9 hockey rinks, a 5,000-seat arena and a 50,000 SF community space.
- Under the CBA, the developer agreed to:
  - ✓ Living wages for all workers in the project;
  - ✓ Targeted and local hire for construction and operations jobs;
  - ✓ More than \$8 million in contributions to a community fund;
  - ✓ A grant program for local businesses that employ large numbers of local workers;
  - ✓ Local contracting, M/WBE utilization, and local procurement requirements;
  - ✓ Extensive green building measures and community consultation on environmental issues;
  - ✓ Priority community access to the project's athletic facilities; and
  - ✓ Formal structures for community-based oversight and enforcement of CBA commitments



# STRATEGY #2: Key Points

- Keep all parties informed about the project as it moves thru process
- Advance community interests when making major land use decisions—don't create conditions of approval
- Allow Community and Developer to Freely Negotiate
  - ✓ Allow the parties to self-select
  - ✓ Enable organic negotiation
- Continue to Press for Community Benefits in project conditions and government agreements



# STRATEGY #3: Enact Ordinances & Policies Establishing Baseline Community Benefits For Future Project

- Create an ordinance for a community benefits that sets minimum standards for:
  - ✓ Local hiring
  - ✓ Living wages
  - ✓ Affordable housing
  - ✓ Local business utilization and
  - ✓ Other community benefits
- Include:
  - ✓ Affirmative benefits to neighborhoods and people
  - ✓ Justifying public subsidies and/or discretionary approvals of large projects
- Provide more consistent standards offer developers greater predictability allowing them to plan for and build in community benefits expectations
- Focus on types of projects:
  - ✓ Receiving public subsidy over a certain dollar threshold
  - ✓ Over a certain size that require



# STRATEGY #3: Los Angeles (2012) Milwaukee (2004)



- LA County Metropolitan Transit Agency adopted a Construction Careers Policy and Master Project Labor Agreement:
  - ✓ Applies to projects in a 30-year, multi-billion dollar transit build out, generating over 23,400 construction jobs in the first 5 years.
  - ✓ Sets aside 40% of these jobs for residents of high-poverty communities and low-income individuals with multiple barriers to employment while providing high quality training and decent working conditions and wages
- Milwaukee County Board of Supervisors adopted the Park East Redevelopment Compact with standards for proposals to develop 16-acres of undeveloped land owned by the county:
  - ✓ Requires developers to pay prevailing wages
  - ✓ Favors proposals that include affordable housing, contracting with disadvantaged business enterprises, training and apprenticeship opportunities, green building principles
- Benefit companies and workers from the County



# STRATEGY #3: Key Points

- Ensure capacity for implementation with staff
- Clearly state which projects and entities are covered and provide mechanisms by which obligations may apply to intended parties
- Monitor and report frequently
- Provide community enforcement:
  - ✓ Living wage ordinances give affected workers the right to enforce living wage commitments against covered employers
  - ✓ Affordable housing policies give residents of affordable housing units the ability to enforce affordability commitments





# STRATEGY #4: Incorporate a Community Benefits Framework into Land Use Planning & Policy

- Require community impact reports to allow for well-informed public discussion about the merits of the proposed project:
  - ✓ Fiscal impact of a project
  - ✓ Number, type and quality of jobs the project will create
  - ✓ Number of affordable housing units the project will include
  - ✓ Other indicators of the project's impact on the neighborhood
  - ✓ The results of such a report can provide a basis for well-informed public debate
- Use zoning and regulatory provisions to incentivize developers to use community benefits
  - ✓ Like inclusionary zoning
- Include community benefits provisions in specific plans, overlay zones and other land use controls



# STRATEGY #4: Santa Monica (2010)

- Adopted the Land Use Element and Circulation Elements (LUCE) as part of its General Plan establishing the city's land use, design and transportation vision
- If project exceeded certain development standards, it must incorporate features that will contribute to City's *"overall social, cultural, physical, transportation and environmental goals."*
- 3 tier approach based on the type of development request, its location and level of intensity:
  - ✓ Tier 1: If project meets requirements, approval granted
  - ✓ Tier 2: If project requires an increase in height and/or floor area, developer's application must provide for community benefits
  - ✓ Tier 3: Most major projects require the City negotiate a development agreement for the community benefits that will be included in those projects
- City identified list of desired benefits:
  - ✓ On-site affordable housing
  - ✓ Fees for transportation improvements, public space and childcare facilities



# STRATEGY #4: Key Points

- Takes work to craft land use policies to advance community benefits and requires careful planning and strategic coordination with city planners and elected officials
- Feasibility studies used to support a significant new land use policy
  - ✓ Counter arguments from opponents
  - ✓ Provide impact of policy on economic development
  - ✓ Assure what a community is likely to gain or lose with a specific project (net gain/loss of housing units, jobs and other services)
- Strong team needed with in-house capacity to effectively develop and implement complex and effective planning and land use plans and policies



# **STRATEGY #5: Convene Key Stakeholders & Reach Agreement on Community Benefits Principles for Future Projects**

- Invite stakeholders to craft an agreement on community benefits principles and create framework for future projects
- Minimize contentious battles as new concepts or circumstances arise
- Establish an agreed-upon policy baseline between stakeholders on key issues
- Require extensive series of meetings with stakeholders convened and facilitated by the elected Council representative with staff support
- Require sustained effort and resources to craft agreement
- Does not result in a legally binding measures



# STRATEGY #5: Portland



- Created a *Community Benefits Agreement* template with stakeholders and city officials:
  - ✓ Job quality & access
  - ✓ Contracting with disadvantaged businesses on construction projects
- Adopted resolution encouraging its use on city projects and other projects
- Modified agreement for each project—yet language is place with template
- To date:
  - ✓ Used on 2 public work projects
  - ✓ Stakeholders are working to put it in place for other projects—including wholly private projects





# STRATEGY #5: Key Point

- Ensure the public and affected parties understand exactly the intent
  - ✓ Create model language for a wide range of projects
  - ✓ Complete a first step in a process of developing binding language for a specified set of projects

## CBA brightens Portland's future



**It's the first of its kind in the state of Oregon.**

This resolution includes instructions to pilot the CBA template on two upcoming large projects: Kelly Butte Reservoir and the Interstate Maintenance Facility renovation.



# Next Steps

- Implement Community Benefits Strategic Approach by:
  - ✓ Convening working group by October 15
  - ✓ Reviewing best practices
  - ✓ Crafting recommendations
  - ✓ Presenting to Mayor and Council during the 1st Quarter 2021
- Publicize all meetings and make them open to the public
- Encourage City Council to continue conversations on CBAs within their districts

